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IN THE

Supreme Court of the United States

OCTOBER TERM, 1958.

No. 243

MEYER FIELD,

Petitioner,

vs.

NUGENT R. OBERWORTMANN AND V. W. BECKING,

Respondents.

REPLY BRIEF.

MEYER FIELD, *Pro Se*, and
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Chicago 1, Illinois,
Counsel for Petitioner.

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REPLY BRIEF.

Petitioner, Meyer Field, plaintiff in this cause, files this reply to the brief of respondents.

I.

The respondents in their statement portion of the brief try to discourage a review of the cause by claiming the suit involves "minor matters" and was filed for the purpose of "vilifying the respondent Oberwortmann," and to foster a "petty personal feud." These are mere whimpering personal escape words. The record clearly shows that the respondents callously ignored their duty to insert in the minutes matters pertaining to the directors' meetings. The respondents here first admit the truth of the allegations alleged in the complaint by their motion to strike and at the same time somehow hope to gain an advantage by arguing the case on the merits. This is hardly proper pleading, to hold with the hare and ride with the hound, at the same time.

II.

The Comptroller of the Currency truly stated the law that a director of a national bank has a right to request that accurate and appropriate minutes be maintained. Respondent, Oberwortmann, who was formerly a Chief National Bank Examiner and presently is a member of a Federal Reserve Bank, seeks to take comfort in his argument that there has been no criticism of the minutes either by the board of directors or by the national bank examiner in his report to the Comptroller of the Currency. The respondents on a motion to dismiss should not be allowed to answer what they think the Comptroller of the Currency failed to do. Maybe on a hearing on the merits some light might be thrown on this failure which plaintiff is unable to show at this stage of the record because of the respondents' technical defense to avoid a trial on the merits.

In any event, first a director certainly criticized the way the minutes were kept and concealed, and the failure so to do gave rise to this mandamus suit herein. Secondly, the bank examiner could not criticize matters not known to him because they were secreted and omitted in the minutes. The very purpose of this mandamus suit is to be sure that the record tells the truth so that the bank examiner would be on notice and would be required to make a report on such matters. In fact these things are the very heart of this case.

Respondents say that "petitioner asserts a deep and dark plot without setting forth any factual basis therefor." There is no deep and dark plot nor does petitioner assert one. Petitioner does say that the minutes of the bank do not tell the truth and does say that the record shows a dereliction of a legal and trust duty by the officers of the national bank.

Respondent objects to the inclusion in the appendix of the opinion of a separate earlier collateral case. That opinion contains an illuminating foundation background of the instant proceeding which makes it relevant.

Conclusion.

For the reasons stated, the petition for writ of certiorari should be granted.

Respectfully submitted,

MEYER FIELD, *Pro Se*, and
LEONARD L. COWAN,
Counsel for Petitioner.